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BANGALORE, MONDAY, JANUARY 7, 1909.

PART III.

Legislative Measures and Rules thereunder.

NOTIFICATION.

No. 177—L. C., dated 26th December 1908.

Under rule 31 of the rules for the conduct of business of the Mysore Legislative Council, the following bill together with a statement of objects and reasons therefor is published for general information.

By Order,

S. HIRIYANNAIYA,
Secy., Legislative Council.

A Bill to recognize the representative character of the Administrator General of Madras.

Whereas the provisions of the Administrator General's Act, 1874 (II of 1874), of the Governor General of India in Council apply as a personal law only to British subjects in the territories of Mysore and whereas it is expedient to make better provision for the recognition in the said territories of the representative title of the Administrator General of Madras against all debtors of, and all persons holding property belonging to, deceased British subjects in the said territories; His Highness the Maharaja is pleased to enact as follows:—

Preamble.

1. The Administrator General of the Presidency of Madras as defined in the Administrator General's Act, 1874 (II of 1874), shall be competent to represent a deceased British subject leaving assets in the territories of Mysore and shall be deemed by all the courts in the said territories to have a right to letters of administration to such British subject in preference to that of any other person merely on the ground of his being a creditor, a legatee other than a universal legatee or a friend of the deceased.

Administrator General competent to represent deceased British subjects and to have preferential right to letters of administration.

Effect of probate or letters of Administration granted to the Administrator General by the High Court of Judicature, Madras.

2. Probate or Letters of administration granted by the High Court of Judicature at Madras to the Administrator General of Madras shall have effect over all the property and estate, moveable or immoveable, of a deceased British subject in the territories of Mysore, and shall be conclusive as to the representative title of the said Administrator General against all debtors of the deceased and all persons holding property therein which belongs to him, and shall afford full indemnity to all debtors paying their debts and all persons delivering up such property to the said Administrator General.

High Court of Judicature at Madras deemed to be a Court of competent jurisdiction within the meaning of Sections 187 and 190 of the Indian Succession Act.

3. So far as regards the Administrator General of Madras, the High Court of Judicature at Madras shall be deemed to be a Court of competent jurisdiction within the meaning of sections 187 and 190 of the Indian Succession Act, 1865 (X of 1865), as applied to the territories of Mysore by Foreign Department Notification No. 203, dated the 23rd July 1868.

Probate or letters of administration granted by the High Court of Judicature at Madras deemed to be Probate or Letters within the meaning of the Succession Certificate Regulation.

4. Probate or letters of administration granted by the High Court of Judicature at Madras to the Administrator General of Madras shall be deemed to be probate or letters of Administration within the meaning of Section 4, sub-section (b), clause (i) of the Succession Certificate Regulation, VII of 1901.

Administrator General may sue and be sued in his representative character as such.

5. All suits and other proceedings commenced by or against the Administrator General of Madras in his representative character in respect of property belonging to a deceased British subject in the territories of Mysore may be brought by or against him by his name of office in the Courts of the said territories, and no suit or other proceeding heretofore or hereafter commenced by or against any person as the Administrator General of Madras, either alone or jointly with any other person, shall abate by reason of the death, resignation or removal from office of the said Administrator General, but the same may, by order of the said Courts and upon such terms as to the service of notices or otherwise as the Courts may direct, be continued by or against his successor immediately upon his appointment in the same manner as if no such death, resignation or removal had occurred.

Proviso.

Provided that nothing hereinbefore contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the suit against him.

Creditor's suit against Administrator General.

6. If any suit be brought in the Courts of the territories of Mysore by a creditor against the Administrator General of Madras in his representative character, the plaintiff shall be liable to pay the costs of the suit down to and including the decree, unless upon proof by affidavit or otherwise that not less than one month previous to the institution of the suit he had applied in writing to the said Administrator General, stating the amount and other particulars of the claim and supporting the same by such evidence as, under the circumstances of the case, the Administrator General was reasonably entitled to require, and that the Administrator General had refused or neglected to register the claim according to the practice of his office.

If in any such suit judgment is pronounced in favor of the plaintiff, he shall, nevertheless, be only entitled to payment out of the assets of the deceased equally and rateably with other creditors.

STATEMENT OF OBJECTS AND REASONS.

The subject of the recognition of the status of the Administrator General of Madras in regard to effects left by deceased British subjects in Mysore has been engaging the attention of Government ever since the year 1902, when the Administrator General laid claim to certain sums of money which stood in the Government Savings Banks at Bangalore and Mysore in the name of certain deceased British Subjects.

Section 1 of the Administrator General's Act, II of 1874, under which the above claim was preferred, makes it applicable as regards British Subjects even to the dominions of Princes and States in India in alliance with His Majesty. But being merely an enactment of the British Legislature and not having been extended to Mysore by an authority competent to do so, the Act cannot be regarded as a part of the territorial laws of the State, so that, though it may be binding on British Subjects residing in Mysore as a personal law some authority recognized by the law of the State would be required before payments of debts due to such a subject can be lawfully enforced or can operate as a valid discharge therefrom to the payers thereof. Further, under the Savings Bank Act, V of 1873, Section 4, the Secretary of a bank is not authorized to pay deposit moneys exceeding Rs. 1,000 in amount in the absence of a Succession Certificate or a probate or letters of administration granted by the Courts of the State. The status of the Administrator General has, however, been recognized to a certain limited extent by Section 4 of the Succession Certificate Regulation, VII of 1901, and it is now deemed expedient to go a little further and to pass a Regulation recognizing the representative character of the said Administrtor General against all debtors of and all persons holding property belonging to deceased British Subjects in Mysore; and for this purpose to frame a law on the lines of the rules framed in this behalf for the Civil and Military Station by the Government of India, instead of introducing the Act II of 1874 as a whole.

The bill enacts that the Administrator General shall be competent to represent a deceased British subject leaving assets in Mysore (Cl. 1) upon probates or letters of administration granted by the High Court of Judicature at Madras (Cl. 3); that he shall be considered by the Courts of the State as having a preferential right to letters of administration (Cl. 1). Under clause 4, the probate or letters of administration granted to the Administrator General by the said High Court shall be deemed to be probate or letters of administration granted under the Succession Certificate Regulation, VII of 1901, which shall have effect over the property, moveable and immoveable, of the deceased and shall be conclusive as to the representative title of the Administrator General against all debtors of the deceased and all persons holding property belonging to him and shall afford full indemnity to debtors paying the debts due to and persons delivering up property belonging to the deceased (Cl. 2).

Clause 5 enacts that the Administrator General may sue and be sued in his representative character. Under clause 6, creditors of the deceased British subject are required to prefer a previous written application to the Administrator General before taking steps to enforce their claims through a Civil Court.

No. J. 1898—*Legis., dated 6th January* 1909.

With reference to Sub-Section (3) of Section 1 of the Mysore Village Offices Regulation, IV of 1908, which received the assent of His Highness the Maharaja on the 16th October 1908, the Government of His Highness the Maharaja are pleased to direct that the Regulation shall come into force with effect from the 1st July 1909.

By Order,
K. S. CHANDRASEKHARA AIYAR,
Secy. to Govt., Gen. & Rev. Depts.